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EXAMINER

GARCIA, ERNESTO

ART UNIT	PAPER NUMBER
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3679

DATE MAILED: 12/18/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/735,728

Applicant(s)

TELLER, DAVID

Examiner

Ernesto Garcia

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) 28-32 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 December 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election of the method of paperless product distribution in Paper No. 3 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

The requirement is still deemed proper and is therefore made **FINAL**.

Claims 28-32 are withdrawn from further consideration pursuant to 37 CFR 1.12(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 3.

### ***Drawings***

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: 213 shown in Figure 2. A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to the Office action to avoid abandonment of the application.

The drawings are objected to because item 200 should include the text "computer" as stated in the specification .

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the retailer business site such that the retailer computer is at the retailer business site in Figure 2 (claim 15), and the customer location such that the customer computer is at the customer location in Figure 2 (claim 23) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered. The objection to the drawings will not be held in abeyance.

### ***Specification***

The disclosure is objected to because of the following informalities:

page 15 needs to be replaced as text in ink has been added to a sentence; and, the description of item 212 is inconsistent. On page 7 in line 17 item 212 is referred to as a "program product storage device" while line 18 refers to 212 as a "program product". Appropriate correction is required.

### ***Claim Objections***

Claims 2, 3, 6, 7, 10, 12, 13, 15-21 and 23-27 are objected to because of the following informalities:

regarding claim 2, the limitation --an-- in line 1 should be --the--;

regarding claim 3, the limitation --the-- should be inserted before "details" in line 1;

regarding claim 6, the limitation "local distributor's delivery" in line 1 should be deleted, and it is unclear to where the bid is communicated; and,

regarding claims 7 and 13, the limitation "local distributor's delivery" in line 1 should be deleted;

regarding claim 10, "the Internet" in line 10 should be --an Internet--;

regarding claim 12, "wherein" in line 1 should be --further including--;

regarding claim 15, the limitation "(1) receives" in line 6 should be --is able to (1) receive-- as the retailer computer 1 does not receive an order as the claim is read; and, regarding claims 17-21 and 25-27, the examiner noticed that the body of these claims do not structurally define the computer system but rather define what the computer system is able to perform;

regarding claims 16, 17, 24 and 25, "the Internet" in line 2 should be --an Internet--; and,

regarding claim 19, "sends" in line 1 should be --able to send-- as the retailer computer does not send the detail at the same time the claim is read, and --the-- should be inserted before "details" in line 2;

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regarding claim 20, the limitation "initiates" in line 2 should be --able to initiate--, and the first occurrence of "a" in line 2 should be --the--; and,

regarding claim 21, the limitation "received local distributor's delivery" should be deleted; and,

regarding claim 23, the limitation "(1) sends" in line 6 should be --is able to (1) send--.

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, lines 10-11 disclose the local distributor returning the receipt code to the retailer; however, prior to receiving delivery confirmation, there is no indication that the distributor was provided with the receipt code. Rather, line 5 indicates the customer was provided with the receipt code only and therefore the distributor cannot return the receipt code to the retailer as the distributor was not provided with the receipt code.

Regarding claims 2-8, the claims depend from claim 1 and therefore are indefinite.

Regarding claim 9, lines 7-8 disclose sending a receipt code from the retailer to the customer; therefore, the customer, in a communication message, receives the receipt code from the retailer. This scenario contradicts line 12, which states that the receipt code is received from the independent local distributor when the receipt code is in fact received from the retailer.

Regarding claims 9-14, the claims depend from claim 9 and therefore are indefinite.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 15-27 are rejected under 35 U.S.C. 102(e) as being anticipated by Southam, 6,594,641.

Regarding claim 15, Southam discloses in Figure 1 a computer system comprising a retailer computer **22**, a retailer business site (not shown, it is well envisioned that the retailer computer 22 be housed in a business site), a network communication interface (it is well known that a network communication interface is an external modem or an internal modem), and an interactive computer network system (an internet; although not shown in Figure 1 the internet is located between customer's computer 12 and the retailer computer 22; see abstract). The retailer computer **22** is at the retailer business site. The network communication interface (the modem) is between the interactive computer network system and the retailer computer **22**.

Applicant is reminded that the retailer computer **22** is able to receive a product order from a remote customer. The product order comprises a communication message sent over the network system from the customer through the communications interface and to the retailer business site. The customer is able to specify at least one product for purchase and delivery. The retailer computer **22** is able to send details of the product order from the retailer computer to an independent local distributor who is geographically local to the customer and able to send a receipt code in a communication message over the network system from the retailer computer through the communications interface to the customer. The retailer computer **22** is able to



receive delivery confirmation comprising return of the receipt code sent to the customer in a message received from the local distributor and, in response, the retailer initiates payment to the independent distributor.

Regarding claim 16, the interactive computer network system comprises an Internet.

Regarding claim 17, applicant is reminded that the details of the product order comprise an e-mail message sent over an Internet to the independent local distributor, listing the at least one product and identify the customer.

Regarding claim 18, the delivery confirmation comprises a computer network message received at the retailer computer, the message containing a receipt code. The receipt code of the message is verified as being identical to the receipt code provided by the retailer computer to the customer.

Regarding claim 19, the retailer computer is able to send the details of the product order. Applicant is reminded that the method of sending the details is not germane to the issue of patentability of the computer system itself. Therefore, this limitation has been given limited patentable weight. See MPEP ' 2113. Applicant is reminded that the retailer computer is able to send a computer network message to the

local distributor, list the products in the product order and identify the customer, and request a bid from the local distributor for contracting delivery of the product order.

Regarding claim 20, the retailer computer is able to initiate delivery after receiving the bid.

Regarding claim 21, the bid includes an election of delivery lever of service.

Regarding claim 22, the retailer is able to request the local distributor to deliver the product.

Regarding claim 23, Southam discloses in Figure 1 a computer system comprising a customer computer 12, a customer location (not shown, it is well envisioned that the customer computer 12 be located in a house or a business), a network communication interface (it is well known that a network communication interface is an external modem or an internal modem), and an interactive computer network system (an internet; although not shown in Figure 1 the internet is located between customer's computer 12 and the retailer computer 22; see abstract). The customer computer 12 is at the customer location. The network communication interface (the modem) is between the interactive computer network system and the customer computer 12.

Applicant is reminded that the customer computer **12** is able to send a product order to a business retailer computer at a remote location. The product order comprises a communication message sent over the network system from the customer through the interface and to the business retailer computer, in which the customer is able to specify at least one retailer product for purchase and delivery. The customer computer **12** is able to receive a receipt code in a communication message from the business retailer computer over the computer network system through the communications interface to confirm to the customer that the business retailer computer has sent details of the product order to an independent local distributor who is local to the customer. The customer can provide the receipt code to the independent local distributor upon delivery to the customer. The receipt code can be verified by the business retailer computer as being the receipt code that is to be sent to the customer. The business retailer computer can initiate payment processing to the local distributor.

Regarding claim 24, the interactive computer network system comprises an internet.

Regarding claim 25, the details of the product order comprise a computer network message sent over an internet to the independent local distributor, listing the products of the order and identify the customer.

Regarding claim 26, the delivery confirmation comprises a compute network message received at the retailer computer. The message contains a receipt code verified as being identical to the receipt code provided by the retailer computer to the customer.

Regarding claim 27, the customer computer is able to specify an election of delivery lever of service for the product order.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Southam, 6,59,61, in view of Walker et al., 6,29,772.

Regarding claim 1, Southam discloses a method comprises;  
support an interactive computer network purchase session in which a remote customer places a product order with a retailer (col. 4, lines 45-48 discusses a computer

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performing a purchase session with the customer); the order includes at least one product (col. 4, line 54-56);

provide details of the product order to an independent local distributor geographically local to the customer (col. 2; lines 33-37; col. 2, lines 7-8 and col. 5, lines 26-30);

provide a receipt code from the retailer to the customer in a return computer network message (col. 6, lines 17-20; see Figure 3 item 66);

initiate delivery of the at least one product from the independent local distributor to the customer (co. 6, lines 21-2);

receive delivery confirmation comprising make payment from the retailer to the independent local distributor (col. 2, lines 32-9). However, receiving delivery confirmation does not comprise return of the receipt code at the retailer from the independent local distributor. Walker et al. teaches receiving delivery confirmation comprising return of a receipt code at the retailer (central controller 110) from the independent local distributor (Logical part 115) to indicate that a transaction has been completed (col. 23, lines 35-53). Therefore, as taught by Walker et al., it would have been obvious to one of ordinary skill in the art at the time the invention was made to return the receipt code to the retailer from the local distributor to indicate that the transaction (order) has been completed.

Regarding claim 2, support the purchase session comprises maintain an internet web site. Applicant is reminded that the customer is able to place the product order and to make payment to the retailer .

Regarding claim 3, the details of the product order are provided by sending a computer network message from the retailer to the independent local distributor. The message lists the products ordered and the customer (col. 5, lines 26-30).

Regarding claim 4, a request from the retailer to the distributor initiates delivery (col. 5, lines 26-30).

Regarding claim 5, the retailer receives delivery confirmation through a computer network message containing the receipt code.

Regarding claim 6, initiate delivery comprises communicating a bid.

Regarding claims 7 and 13, the bid includes an election of delivery level of service. Applicant is reminded that the customer makes an election between distributors of preferred service.

Regarding claims 8 and 14, the retailer requests only one local distributor to deliver the product.

Regarding claim 9, Southham discloses a method comprises:

receive a product order; send details of the product order, and receive delivery confirmation. A retailer computer site receives the product order from a remote customer. The product order comprises a communication message sent over an interactive computer network system from the customer to the retailer. The customer specifies one or more retailer products. The retailer computer site sends the details of the product order to an independent local distributor who is local to the customer. The retailer computer site sends, in a communication message over the computer network system, a receipt code to the customer. The retailer computer site receives, in a communication message, the delivery confirmation comprising return of the details sent to the customer in a communication message that was received from the retailer, and, in response, make payment from the retailer to the independent local distributor.

Regarding claim 10, the interactive computer network system comprises an internet.

Regarding claim 11, sending the details of the product order comprises sending a computer network message, listing the products ordered and identifying the customer, and requesting a bid from one local distributor (the independent local distributor) for contracting delivery of the product order.

Regarding claim 12, the method further includes initiate delivery of the product or products. The initiate delivery comprises communicating a bid.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ernesto Garcia whose telephone number is 703-308-8606. The examiner can normally be reached from 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynne H Browne can be reached on 703-308-1159. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-2168.

  
**Lynne H. Browne**  
**Supervisory Patent Examiner**  
**Technology Center 3600**

E.G.

December 8, 2003